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EXAMINER	
TRUJILLO, JAMES K	
ART UNIT	**PAPER NUMBER**
2116	

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/036,563	HENDRICKSON ET AL.	
	Examiner	Art Unit	
	James K. Trujillo	2116	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 July 2002*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-41* is/are pending in the application.

4a) Of the above claim(s) *1-13,19,20 and 31-41* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *14-18 and 21-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *060702, 071602*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The office acknowledges the receipt of the following and placed of record in the file: IDSs dated 6/4/2002 and 7/16/02.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-6, drawn to a de-skew system with data channels over which data is transmitted, classified in class 713, subclass 500.

II. Claims 7-13, drawn to the reception of data in de-skew systems and methods, classified in class 713, subclass 500.

III. Claims 14-18 and 21-30, drawn to centering a sample in a de-skew method, classified in class 713, subclass 503.

IV. Claims 19-20 and 37, drawn to aligning a sample of data in a de-skew method, classified in class 713, subclass 503.

V. Claims 38-41, drawn to coupling upstream and downstream units in a de-skew system, classified in class 713, subclass 500.

2. The inventions are distinct, each from the other because of the following reasons: Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as in systems that only transmit data, and do not receive it. See MPEP § 806.05(d).

Inventions I and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as in systems in which no data are centered. See MPEP § 806.05(d).

Inventions I and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as in systems in which data are not adjusted. See MPEP § 806.05(d).

Inventions I and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as in systems that contain no upstream or downstream units. See MPEP § 806.05(d).

Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as systems in which no data are centered. See MPEP § 806.05(d).

Inventions II and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as in systems in which data are not adjusted. See MPEP § 806.05(d).

Inventions II and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be

separately usable. In the instant case, invention II has separate utility such as in systems that contain no upstream or downstream units. See MPEP § 806.05(d).

Inventions III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as in systems in which data are not adjusted. See MPEP § 806.05(d).

Inventions III and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as in systems that contain no upstream or downstream units. See MPEP § 806.05(d).

Inventions IV and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention IV has separate utility such as in systems that contain no upstream or downstream units. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II, III, IV and V, the search for Group II is not required for Groups I, III, IV, and V, the search for Group III is not required for Groups I, II, IV, and V, the search for Group IV is not required for Groups I, II, III, and V, and the search for Group V is not required for Groups I, II, III, and IV, restriction for examination purposes as indicated is proper.

3. Claim 42 links inventions I and II. The restriction requirement between the linked inventions is subject to the nonallowance of the linking claim, claim 42. Upon the allowance of the linking claim, the restriction requirement as to the linked inventions shall be withdrawn and

any claim depending from or otherwise including all the limitations of the allowable linking claim will be entitled to examination in the instant application. Applicants are advised that if any such claim depending from or including all the limitations of the allowable linking claim is presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. In re Ziegler, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

5. During a telephone conversation with Daniel Cavanagh on November 22, 2005, a provisional election was made without traverse to prosecute the invention of Group III, claims 14-18 and 21-30. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-13, 19-20 and 31-41 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Claims 14-18 and 21-30 are presented for examination.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 14-18, 21 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ems et al., U. S. Patent 4,482,826 (cited in IDS) in view of Johnson et al., U. S. Patent 6,434,081.

9. Regarding claim 21, Ems teaches a de-skew method comprising:

a. selecting data from specific channel of a plurality of channels (Ems uses a reference channel to control the delay imparted on specific channels, col. 6, lines 29-43 and col. 9, line 65 through col. 10, line 34);

b. adjusting a forward data sample until data in the forward data sample matches the selected data (Ems adjusts the delay for each channels based on a sample through a reference channel, col. 6, lines 29-43 and col. 9, line 65 through col. 10, line 34);

c. selecting another channel of the plurality of channels (each channels inherently must be selected in order to add/subtract delay for each channel, col. 9, line 65 through col. 10, line 34);

d. adjusting skew on the selected channel until data in the selected channel matches the forward data sample (add/subtract delay for each channel, col. 9, line 65 through col. 10, line 34); and

e. rotating through all the plurality of channels to select and adjust skew of all the plurality of channels to match the forward data sample (each channel must be "rotated"

through in order to add/subtract delay for each channel, col. 9, line 65 through col. 10, line 34).

Ems does not explicitly disclose centering skew adjustment for the specific channel.

Johnson teaches centering skew adjustment for specific channels (the best delay is the middle of the window of data, wherein the selecting the middle of data for the delay is centering skew adjustment for the specific channel, col. 2, lines 3-14 and col. 4, lines 41-48). The system of Johnson is in the same field of endeavor as that of Ems in that both are directed toward adjusting skew for parallel channels. Johnson further teaches that centering a skew adjustment provides the best skew ("delay") value to ensure that data is properly clocked (col. 4, lines 27-31).

It would have been obvious to one of ordinary skill in the art, having the teachings of Ems and Johnson before them at the time the invention was made to, modify they system of Ems by including centering skew adjustment for specific channels as taught by Johnson. One of ordinary skill in the art would have been motivated to make the modification because Johnson teaches that the centering skew provides the best skew value.

10. Regarding claim 29, Ems together with Johnson taught the method according to claim 21, as disclosed hereinabove. Johnson further teaches wherein centering skew adjustment further comprises centering a sampling point of the selected channel (the data pattern is sampled to determine the middle of the data window, col. 4, lines 27-52).

11. Regarding claim 30, Ems together with Johnson taught the method according to claim 21, as disclosed hereinabove. Johnson further teaches wherein center skew adjustment further

comprises sampling a plurality of points of data from the selected data channel (data pattern is sample in Ems, col. 4, lines 31-36); and comparing the plurality of sampled points to determine the data of the selected data channel (necessary in order for middle of the window to be determined, col. 4, lines 27-52).

12. Regarding claim 14, Ems teaches a de-skew method comprising:

a. comparing the forward data sample to data on one of the plurality of data channels (Ems adjusts the delay for each channels based on a sample through a reference channel, the delay from the reference is compared to the other channels in order for the delays to be adjusted, col. 6, lines 29-43 and col. 9, line 65 through col. 10, line 34); and

b. determining a time variation between the data and the forward data sample when the forward data sample corresponds to the data (col. 6, lines 29-43 and col. 9, line 65 through col. 10, line 34).

Ems does not explicitly disclose centering a forward data sample.

Johnson teaches centering skew adjustment for specific channels (the best delay is the middle of the window of data, wherein the selecting the middle of data for the delay is centering skew adjustment for the specific channel, col. 2, lines 3-14 and col. 4, lines 41-48). The system of Johnson is in the same field of endeavor as that of Ems in that both are directed toward adjusting skew for parallel channels. Johnson further teaches that centering a skew adjustment provides the best skew ("delay") value.

It would have been obvious to one of ordinary skill in the art, having the teachings of Ems and Johnson before them at the time the invention was made to, modify they system of Ems by including centering skew adjustment for specific channels as taught by Johnson. One of

ordinary skill in the art would have been motivated to make the modification because Johnson teaches that the centering skew provides the best skew value to ensure that data is properly clocked (col. 4, lines 27-31).

13. Regarding claim 15, Ems together with Johnson taught the method of claim 14, as described above. Ems further comprising delaying the forward data sample based on the determined time variation (delay of Ems is based on the reference channel, col. 6, lines 29-42).

14. Regarding claim 16, Ems together with Johnson taught the method of claim 14, as described above. Johnson further teaches wherein centering the forward data sample further comprises: setting a sampling point of a first data channel; and sampling the first data channel at the set sampling point (sampling data on paths, col. 4, lines 27-52).

15. Regarding claim 17, Ems together with Johnson taught the method of claim 14, as described above. Johnson further teaches wherein centering the forward data sample further comprises sampling the first data channel at a midpoint of a predetermined de-skew range (middle of the window, col. 4, lines 27-52).

16. Regarding claim 18, Ems together with Johnson taught the method of claim 14 wherein centering the forward data sample further comprises sampling the first data channel at approximate a center of a data eye of the first data channel and near a midpoint of a predetermined de-skew range (middle of the window, col. 4, lines 27-52).

17. Claims 14-18, 21 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakamoto et al., U. S. Patent 6,336,192 in view of Johnson et al., U. S. Patent 6,434,081.

18. Regarding claim 21, Sakamoto teaches a de-skew method comprising:

a. selecting data from specific channel of a plurality of channels (comparing frame signals in all channels, col. 13, line 52 through col. 14, line 4 and col. 14, lines 46-59);

b. adjusting a forward data sample until data in the forward data sample matches the selected data (identifies skewing amount in all channels, col. 13, line 52 through col. 14, line 4 and col. 14, lines 46-59);

c. selecting another channel of the plurality of channels (in comparing all the channels all channels must be selected, col. 13, line 52 through col. 14, line 4 and col. 14, lines 46-59);

d. adjusting skew on the selected channel until data in the selected channel matches the forward data sample (adjusting the amount of data delay, col. 13, line 52 through col. 14, line 4 and col. 14, lines 46-59); and

e. rotating through all the plurality of channels to select and adjust skew of all the plurality of channels to match the forward data sample (each channel must be "rotated" through in order to adjust delay for each channel, col. 13, line 52 through col. 14, line 4 and col. 14, lines 46-59).

Sakamoto does not explicitly disclose centering skew adjustment for the specific channel.

Johnson teaches centering skew adjustment for specific channels (the best delay is the middle of the window of data, wherein the selecting the middle of data for the delay is centering skew adjustment for the specific channel, col. 2, lines 3-14 and col. 4, lines 41-48). The system of Johnson is in the same field of endeavor as that of Sakamoto in that both are directed toward adjusting skew for parallel channels. Johnson further teaches that centering a skew adjustment

provides the best skew ("delay") value to ensure that data is properly clocked (col. 4, lines 27-31).

It would have been obvious to one of ordinary skill in the art, having the teachings of Sakamoto and Johnson before them at the time the invention was made to, modify they system of Sakamoto by including centering skew adjustment for specific channels as taught by Johnson. One of ordinary skill in the art would have been motivated to make the modification because Johnson teaches that the centering skew provides the best skew value.

19. Regarding claims 27 and 28, Sakamoto together with Johnson taught the method according to claim 21, as described above. Sakamoto teaches aligning data in the form of frames from the plurality of channels (col. 13, line 52 through col. 14, line 4). In teaching aligning frames Sakamoto also teaches aligning data would be in the form of words or bytes or even bits. Further it appears that word aligning data and byte aligning data as recited in claims 27 and 28 is construed to be an admission that the criticality does not reside in the type of type of data aligned utilized and hence obvious variations of one another.

20. Regarding claim 29, Sakamoto together with Johnson taught the method according to claim 21, as disclosed hereinabove. Johnson further teaches wherein centering skew adjustment further comprises centering a sampling point of the selected channel (the data pattern is sampled to determine the middle of the data window, col. 4, lines 27-52).

21. Regarding claim 30, Sakamoto together with Johnson taught the method according to claim 21, as disclosed hereinabove. Johnson further teaches wherein center skew adjustment further comprises sampling a plurality of points of data from the selected data channel (data pattern is sample in Ems, col. 4, lines 31-36); and comparing the plurality of sampled points to

determine the data of the selected data channel (necessary in order for middle of the window to be determined, col. 4, lines 27-52).

22. Regarding claim 14, Sakamoto teaches a de-skew method comprising:

a. comparing the forward data sample to data on one of the plurality of data channels (comparing frame signals in all channels, col. 13, line 52 through col. 14, line 4 and col. 14, lines 46-59); and

b. determining a time variation between the data and the forward data sample when the forward data sample corresponds to the data (comparing frame signals in all channels to determine skewing amount, col. 13, line 52 through col. 14, line 4 and col. 14, lines 46-59).

Sakamoto does not explicitly disclose centering a forward data sample.

Johnson teaches centering skew adjustment for specific channels (the best delay is the middle of the window of data, wherein the selecting the middle of data for the delay is centering skew adjustment for the specific channel, col. 2, lines 3-14 and col. 4, lines 41-48). The system of Johnson is in the same field of endeavor as that of Ems in that both are directed toward adjusting skew for parallel channels. Johnson further teaches that centering a skew adjustment provides the best skew ("delay") value.

It would have been obvious to one of ordinary skill in the art, having the teachings of Ems and Johnson before them at the time the invention was made to, modify they system of Ems by including centering skew adjustment for specific channels as taught by Johnson. One of ordinary skill in the art would have been motivated to make the modification because Johnson

teaches that the centering skew provides the best skew value to ensure that data is properly clocked (col. 4, lines 27-31).

23. Regarding claim 15, Sakamoto together with Johnson taught the method of claim 14, as described above. Sakamoto further comprising delaying the forward data sample based on the determined time variation (delay of Sakamoto is based on the comparison of channel delays, col. 6, lines 29-42).

24. Regarding claim 16, Sakamoto together with Johnson taught the method of claim 14, as described above. Johnson further teaches wherein centering the forward data sample further comprises: setting a sampling point of a first data channel; and sampling the first data channel at the set sampling point (sampling data on paths, col. 4, lines 27-52).

25. Regarding claim 17, Sakamoto together with Johnson taught the method of claim 14, as described above. Johnson further teaches wherein centering the forward data sample further comprises sampling the first data channel at a midpoint of a predetermined de-skew range (middle of the window, col. 4, lines 27-52).

26. Regarding claim 18, Sakamoto together with Johnson taught the method of claim 14 wherein centering the forward data sample further comprises sampling the first data channel at approximate a center of a data eye of the first data channel and near a midpoint of a predetermined de-skew range (middle of the window, col. 4, lines 27-52).

27. Claims 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakamoto et al., U. S. Patent 6,336,192 and Johnson et al., U. S. Patent 6,434,081 in view of Ito et al., U.S. Patent 5,467,346.

28. Regarding claim 22, Sakamoto together with Johnson taught the method according to claim 21, as described above. Sakamoto teaches receiving a frame but does not detail the contents of the frame. Sakamoto and Johnson do not explicitly disclose further comprising receiving a header; and decoding the header to determine a channel number.

Ito teaches a receiving a header portion and decoding the header to determine a channel number (header has therein a logical channel number, col. 1, lines 19-36). Ito is in the same field of endeavor as Sakamoto in that both are directed toward sending packets ("frames") over parallel channels. Ito further teaches that sending a header with a channel number allows the identification of the destination to be determined.

It would have been obvious to one of ordinary skill in the art, having the teaching of Sakamoto, Johnson and Ito before them at the time the invention was made, to modify Sakamoto to include a header in his received packets ("frame") which when decoded determines a channel number as taught by Ito. One of ordinary skill in the art would have been motivated to make this modification in order to allow the identification of the destination to be determined.

29. Regarding claim 23, Sakamoto together with Johnson and Ito taught the method according to claim 22, as described above. Ito teaches wherein the header comprises a fixed pattern (a header is inherently a fixed pattern) and at least one channel number ("logical channel number", col. 1, lines 19-36).

30. Regarding claim 24, Sakamoto together with Johnson and Ito taught the method according to claim 22, as described above. Ito header teaches using a header. Headers inherently contain sample length and status words such as framing bits, control information and address information.

31. Regarding claim 25, Sakamoto together with Johnson and Ito taught the method according to claim 22, as described above. Ito teaches using a header. Headers inherently prepend information thus the header would precede the forward data sample.

32. Regarding claim 26, Sakamoto together with Johnson and Ito taught the method according to claim 25, as described above. Johnson further teaches where the forward data sample comprises a fixed quantity of data samples (correct sampling and recognition of a 2N bit pattern, col. 4, lines 36-41).

Double Patenting

33. Claim 14-18 and 21-30 of this application conflict with claims 14-18 and 21-30 of Application No. 10/036,565. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

34. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

35. Claims 14-18 and 21-30 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 14-18 and 21-30 of copending Application No. 10/036,535. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Conclusion

36. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

> U.S. Pat. No. 6,691,214 to Li et al. This patent teaches aligning data by adjusting delay based on the data eye of a plurality of channels.
>
> U.S. Pat. No. 6,031,847 to Collins et al. This patent teaches aligning data by adjusting delay in a plurality of channels.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James K. Trujillo whose telephone number is (571) 272-3677. The examiner can normally be reached on M-F (7:00 am - 4:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on (571) 272-3670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James K. Trujillo
12/05/05

James K. Trujillo
Patent Examiner
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